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BEFORE THE ARIZONA CORPORATION COMMISSION
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Commissioner

2005 AUG 26 P 2: 24

AZ CORP COMMISSION
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IN THE MATTER OF THE PETITION)
OF DIECA COMMUNICATIONS, INC.,)
D/B/A COVAD COMMUNICATIONS)
COMPANY, FOR ARBITRATION TO)
RESOLVE ISSUES RELATING TO AN)
INTER-CONNECTION AGREEMENT)
WITH QWEST CORPORATION)

Docket No. T-03632A-04-0425
T-010513-04-0425

**COVAD'S STATEMENT REGARDING THE FCC'S DECISION ON ISP
ACCESS TO INCUMBENT TELEPHONE NETWORKS**

Pursuant to the arbitrator's August 12, 2005 procedural order ("Order"), DIECA Communications, Inc. d/b/a Covad Communications Company ("Covad") provides the following statement regarding the Federal Communications Commission's ("FCC") decision on ISP access to incumbent wireline telephone networks:

In the Order, the arbitrator requested the parties and staff to file a statement regarding the impact, if any, of the FCC decision of August 5, 2005 in which the FCC eliminated certain facilities sharing requirements with respect to facilities-based wireline broadband Internet access service providers.

The FCC has not yet released a report and order in connection with its August 5 decision. Rather, the FCC only issued an abbreviated press release outlining the scope of its decision. Hence, the impact of the decision cannot be fully assessed until a final

report and order is issued. Nonetheless, based upon the August 5 press release and the companion comments of the FCC commissioners, Covad believes that the decision has no impact on any of the issues in this docket. The decision does not address the availability of unbundled network elements under any provisions of the Telecommunications Act of 1996 ("Act") and, specifically, takes no position on Qwest's duty to provision network elements under section 271 of the Act, which is one of the issues before the arbitrator. Thus, whether Qwest has a duty under section 271 of the Act to provision certain network elements including, loops and dedicated transport, at cost-based rates is not impacted by the FCC's decision. Consequently, the arbitrator is not restrained in any way by the FCC decision from ordering Qwest to provision network elements to Covad under section 271 of the Act at cost-based rates. Likewise, the FCC decision has no impact on any of the other issues pending before the arbitrator.

RESPECTFULLY SUBMITTED,

Dated: August 26, 2005

DIECA COMMUNICATIONS, INC.

By: _____

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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of **COVAD'S STATEMENT REGARDING THE FCC'S DECISION ON ISP ACCESS TO INCUMBENT TELEPHONE NETWORKS** was electronically mailed this 26th day of August, 2005, to the following:

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